

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Nancy A.Nessa,

**Case No.: 09-60081
Chapter 7**

Debtor(s).

**DEBTORS' RESPONSE TO TRUSTEE'S
MOTION OBJECTING TO EXEMPT PROPERTY**

TO: The United States Bankruptcy Court, Gene W. Doeling, Trustee, the United States Trustee, and all parties who requested notice under Bankruptcy Rule 2002.

Debtor, by and through her attorneys, hereby responds to the Trustee's Motion Objecting to Exempt Property. The Trustee seeks to set aside the Debtor's exemption of a Wells Fargo Rollover IRA xxx9505 (IRA) held by the Debtor. The Trustee believes that the asset is not exempt because it was an IRA asset that was inherited from the Debtor's father and that was subsequently rolled over into the Debtor's name under Section 408 of the Internal Revenue Code as a direct rollover.

1. The Debtor does not dispute the Movant's assertion that this is a core proceeding and that the bankruptcy court has jurisdiction over this motion. The Debtor admits that the petition in this chapter 7 case was filed on January 22, 2009.

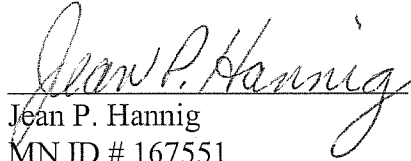
2. The Debtor disputes the Trustee's assertion that the Exemption claimed by the Debtor under Minnesota Statutes § 550.37(24) should be denied. The Debtor has claimed the IRA asset exempt under 11 U. S. C. § 522(d)(12) which provides an exemption for:

Retirement Funds to the extent that those funds are in a fund or account that is exempt from taxation under Section 401, 403, 408, 408A, 414, 457, 501(a) of the Internal Revenue Code of 1986.

This IRA is in a direct rollover fund held in the name of the Debtor. The earnings and funds in the IRA are exempt from taxation. The Debtor must take minimum required annual distributions from the IRA based on the age of her late father pursuant to Section 408 of the Internal Revenue Code. Therefore, the Debtor asserts that her exemption is properly claimed and valid.

WHEREFORE, the Debtors respectfully request that the Trustee's Motion objecting to exemptions be denied.

Dated this 22nd day of April, 2009.



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Attorneys for Debtors

VERIFICATION

Debtor, Nancy A. Nessa, the responding party named in the foregoing Response to Motion, declares under penalty of perjury that the foregoing is true and correct to the best of her knowledge, information, and belief.

Dated this 22nd day of April, 2009.



Nancy A. Nessa

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